

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

RICHARD LEE,

Plaintiff,

vs.

CITY OF SEATTLE, SEATTLE POLICE
DEPARTMENT and SPD INTERIM CHIEF
HARRY BAILEY and SPD DETECTIVE
MIKE CIESYNSKI,

Defendants.

No. 14-2-09292-0 SEA

DECLARATION OF MARY PERRY

I, MARY PERRY, declare under penalty of perjury under the laws of the State of Washington as follows:

1. I am over 18 years of age and am competent to testify. I make this declaration based on my personal knowledge, my review of Seattle Police Department (SPD) and Seattle City Attorney's Office records, and my professional knowledge.

2. I am employed with the Seattle City Attorney's Office as an Assistant City Attorney in the Government Affairs Section of the Civil Division. My primary practice area is

DECLARATION OF MARY PERRY - 1

PETER S. HOLMES
Seattle City Attorney
600 Fourth Avenue, 4th Floor
PO Box 94769
Seattle, WA 98124-4769
(206) 684-8200

1 the Washington Public Records Act, RCW Chapt. 42.56.

2 3. I represent the City of Seattle, Seattle Police Department, SPD Interim Chief
3 Harry Bailey, and Det. Mike Ciesynski in this matter.

4 4. Attached hereto as **Exhibit 1** is a true and correct copy of Plaintiff's List of
5 Primary Witnesses in this matter listing eighteen potential witnesses identified by Plaintiff
6 Richard Lee.

7 5. Attached hereto as **Exhibit 2** is a true and correct copy of Plaintiff's List of
8 Possible Additional Witnesses in this matter listing 82 individual witnesses plus "Seattle Fire
9 Department Engine 34 (personnel)."

10 6. Attached hereto as **Exhibit 3** is a true and correct copy of "Frequently Asked
11 Questions about the JFK Assassination Records Collection" maintained by the National
12 Archives, stating that John F. Kennedy's **autopsy photographs were not obtained through the**
13 **National Archives** and that access to the autopsy photographs and X-rays of President Kennedy
14 is limited to: (1) persons authorized to act for a Committee of Congress, a Presidential
15 Commission, or any other official agency of the Federal government having authority to
16 investigate matters relating to the assassination of President Kennedy and to (2) recognized
17 experts in the field of pathology or related areas of science and technology whose applications
18 are approved by the Kennedy family representative, Mr. Paul Kirk. Available at the National
19 Archives website at <http://www.archives.gov/research/jfk/faqs.html#xray> last accessed July 21,
20 2015.

1 7. Attached hereto as **Exhibit 4** is a true and correct copy of Findings of Fact,
2 Conclusions of Law and Final Judgment Issuing Permanent Injunction Barring Disclosure of
3 Documents in *Courtney Love-Cobain v. Washington State Patrol*, No. 95-2-27261-4SEA.

4
5 Signed this 22nd day of July, 2015 at Seattle, King County, Washington.

6
7 Mary F. Perry
8 MARY F. PERRY

EXHIBIT 1

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31 DEC 2014 15 11

DEPARTMENT OF
JUDICIAL ADMINISTRATION
KING COUNTY, WASHINGTON

Hon. Timothy Bradshaw

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

RICHARD LEE,

Plaintiff,

v.

CITY OF SEATTLE,

SEATTLE POLICE DEPARTMENT and

SPD INTERIM CHIEF HARRY BAILEY

and

SPD DETECTIVE MIKE CIESYNSKI,

Defendants

No. 14-2-09292-0 SEA

PLAINTIFF'S LIST OF POSSIBLE
PRIMARY WITNESSES

Plaintiff RICHARD LEE herein submits his list of Possible
Primary Witnesses to be called at the trial of above-titled
action. This list may be amended or more limited, and the
Plaintiff is aware of the relevant February 3, 2015 deadline
referred to in the Case Schedule.

Plaintiff's List of Possible Primary Witnesses, at this time:

Kathleen O'Toole, Seattle Chief of Police

1 Mike Ciesynski, Seattle Police Department
2 Harry Bailey, Seattle Chief of Police (former)
3 Norman Stamper, Seattle Chief of Police (former)
4 Sean O'Donnell, Seattle Police Department
5 Steve Kirkland, Seattle Police Department
6 Larry Farrar, Seattle Police Department (former)
7 V. Levandowski, Seattle Police Department
8 Leo Poort, Seattle Police Department
9 Gary Webster, Bleitz Funeral Home
10 Mary F. Perry, Assistant Seattle City Attorney
11 Dr. Richard C. Harruff, Chief Pathologist, King County Medical
12 Examiner
13 Dr. Donald T. Reay, Chief Pathologist, King County Medical
14 Examiner (former)
15 Courtney Love-Cobain (widow of decedent)
16 Frances B. Cobain (daughter of decedent)
17 Gary Webster, Bleitz Funeral Home
18 Katherine Hendricks, Seattle Attorney
19 Dr. Cyril Wecht, medico-legal pathologist (as expert)

20
21 DATED this 31st day of December, 2014



22
23
24 RICHARD LEE,
Plaintiff (pro se)
25 PO Box 31925
Seattle, WA 98103
26 (206) 545-0878
richardleeseattle@
27 gmail.com
28

EXHIBIT 2

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DEPARTMENT OF
JUDICIAL ADMINISTRATION
KING COUNTY, WASHINGTON

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SEATTLE CITY ATTORNEY

Hon. Timothy Bradshaw

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

RICHARD LEE,

Plaintiff,

v.

CITY OF SEATTLE,

SEATTLE POLICE DEPARTMENT and

SPD INTERIM CHIEF HARRY BAILEY

and

SPD DETECTIVE MIKE CIESYNSKI,

Defendants

No. 14-2-09292-0 SEA

PLAINTIFF'S LIST OF POSSIBLE
ADDITIONAL WITNESSES

Plaintiff RICHARD LEE herein submits his list of Possible Additional Witnesses to be
called at the trial of above-titled action.

Plaintiff's List of Possible Additional Witnesses, in alphabetical order, at this time:

Abeye, Wodajo

Barth, Ernest

Best, Scott

Boseman, Rita

Briggs, Jack

Brummond, Judy

- 1 Carlson, Dylan
- 2 Carroll, Rosemary
- 3 Chittenden, J.D.
- 4 Cobain, Donald
- 5 Cobain, Kim
- 6 Cohen, Jeryll
- 7 Coluccio, Bryan
- 8 Delgado, Dave
- 9 DeWitt, Michael
- 10 Draher, Alan
- 11 Edwards, E.E.
- 12 Erlandson, Eric
- 13 Evenson, Mark
- 14 Farrell, Charles
- 15 Farry, Jackie
- 16 Fewel, Joseph
- 17 Fine, Clark
- 18 Gaensselen, Robert
- 19 Geffen, David
- 20 Gelb, Ed
- 21 George, D.W.
- 22 Gerdes, Al
- 23 Geronimo, T.
- 24 Getchman, Geoffrey
- 25 Goldberg, Danny
- 26 Grant, Tom
- 27 Grohl, David
- 28 Hebert, Larry

1	Hopper, Jessica
2	Jackson, Marsha
3	Johnson, Lee
4	Johnson, Sharon Stewart
5	Kerlikowske, R. Gil
6	Klugman, Ben
7	Kilpatrick, Kevin
8	Kimerer, Clark
9	Kyburz, R.
10	Lawrence, John A.
11	Lee, Richard
12	Lewis, O. Yale
13	Lippman, Stan
14	Lichtenstein, Seth
15	Locke, Gary
16	Marberg, George
17	Mason, Jeff
18	McCormmach, Jane
19	McGee, Mike
20	McKagan, Michael
21	Mitchel, Celeste
22	Nadleman, Jessica
23	Nickels, Greg
24	Novoselic, Krist
25	O'Connor, Wendy
26	Paige, C.
27	Palica, Sam
28	Parker, Janis

1 Pelley, Charles
2 Pflaumer, Kate
3 Pidduck, Carol Newell
4 Plough, Alonzo
5 Radford, Bennie
6 Rice, Norm
7 Roskind, M.
8 Rossi, Melissa
9 Seattle Fire Department Engine 34 (personnel)
10 Shelger, James
11 Sims, Ron
12 Smart, William C.
13 Smith, Carol A.
14 Smith, Gary
15 Sullivan, Marty
16 Walker, Linda
17 Walker, Mike
18 Wendy (Gray Top Taxi)
19 Woo, Curtis
20 Yoshida, Jim
21 Ziminsky, Dennis

22 DATED this 3rd day of February, 2015
23



signed, RICHARD LEE,
Plaintiff (pro se)
PO Box 31925
Seattle, WA 98103
(206) 545-0878
richardleeseattle@
gmail.com

EXHIBIT 3

Frequently Asked Questions about the JFK Assassination Records Collection

- I've heard that some of the records are sealed? Why? When will they be opened to the public for examination for my research?
- How can I get a copy of the Warren Commission Report?
- What do you know about the "backyard photographs"?
- Can I see the rifle or other artifacts?
- Can I see Warren Commission records that are designated as commission exhibits (CE's) or FBI exhibits **but are not artifacts**?
- I have seen the autopsy photographs and x-rays in books. Did NARA make them available?
- Can I access the Autopsy Report?
- What happened to the Presidential Limousine that carried President Kennedy on the day he was assassinated?
- What is an "assassination-related" document?
- The JFK Assassination Collection Database: What is it?
- What's in the JFK Assassination Collection database...What's not in it?
- What is the significance of the Record Number in the JFK Assassination Collection Database?
- Where is the Zapruder Film? Can I get a copy of it?
- I am interested in acquiring some of the archives of the John F. Kennedy Assassination Records Collection. What is the process to do so?
- Are the photographs digitized?
- I have a school/work/personal project pertaining to the JFK Assassination Collection. How do I begin?
- Do I have to submit a Freedom of Information Act request to access any records within the collection?
- Can I view Mrs. Kennedy's Pink Suit?
- Can I have copies of the entire collection?
- Can I view President Kennedy's clothing?
- Are the images in the collection public domain or under copyright?


I've heard that some of the records are sealed? Why? When will they be opened to the public for examination for my research?

It is a common misconception that the records relating to the assassination of President Kennedy are in some way sealed. In fact, the records are largely open and available to the research community here at the National Archives at College Park in the President John F. Kennedy Assassination Record Collection.

Congress created the Kennedy Collection when it passed the Kennedy Assassination Records Collection Act of 1992. This statute directed all Federal agencies to transmit to the National Archives and Records Administration (NARA) all records relating to the assassination in their custody. The Kennedy Act also created a temporary agency, the Assassination Records Review Board (ARRB), to ensure that the agencies complied with the Act.

In addition to records already open at NARA prior to the passing the Kennedy Act, the Collection now consists of previously withheld records of the Warren Commission, records of the Office of the Archivist, and newly released materials from the Kennedy, Johnson, and Ford Presidential Libraries. Other agency records in the Collection include records of the House Select Committee on Assassinations, records of the Central Intelligence Agency, the Federal Bureau of Investigation and a small amount of material from a variety of other agencies, including the Office of Naval Intelligence. The Collection now includes over five million pages of records.

With a very few exceptions, virtually all of the records identified as belonging to the Kennedy Collection have been opened in part or in full. Those documents that are closed in full or in part were

done so in accordance with the Kennedy Act, mentioned above. According to the Act, no record could be withheld in part or in full, without the agreement of the ARRB. The guidelines for withholding records are outlined in the provisions in Section 6 of the Act. The full report of the ARRB is available online. A copy of the Act is in  Appendix C of the ARRB Report mentioned above. In all cases where the ARRB agreed to withhold a record or information in a record, they stipulated a specific release date for the document. In addition, according to Section 5(g)(2)(D) of the Act, all records in the Kennedy Collection will be opened by 2017 unless certified as justifiably closed by the President of the United States.

How can I get a copy of the Warren Commission Report?

- The volumes are out of print, but are available to read at US Government depository libraries throughout the US. Go to Federal Depository Library to find a depository library near you.
- The National Archives and Records Administration (NARA) sells microfilm copies of the Warren Commission Report and its 26 supporting volumes. Simply call 1-866-272-6272 and ask for microfilm publication M1758 or see the page on How to Purchase Microfilm for instructions on mailing in an order.
- NARA has an electronic link to the Report, but not the 26 supporting volumes.
- A digitized version of the Warren Commission Report and all 26 supporting volumes is available at the web site of the Assassination Archives and Research Center (AARC) at the following link: <http://www.aarclibrary.org/publib.htm>. The AARC is a private organization and is not affiliated with NARA in any way. NARA cannot vouch for the accuracy of this digitized version of the Report and supporting volumes. However, we are providing the link as a courtesy for our researchers.
- Finally, we understand that CD ROM versions of the Report and supporting volumes are sold through various sources. We do not endorse any publication but understand that they can be purchased through amazon.com and a private organization at jfkclancer.com.

What do you know about the "backyard photographs"?

There are three different backyard photographs. Two were located at the time of the Warren Commission and are filed as CE 133A and 133B. A third was discovered by the HSCA and is filed as HSCA F Exhibit F-180. An explanation of the history of all three photographs is located in HSCA Report, Volume II, pp.319-322.

Can I see the rifle or other artifacts?

It is NARA policy to make evidentiary objects available for viewing only when a researcher's needs cannot be met by a review of pictures, reproductions, or descriptions of the object and when production of the original will not cause damage or harm to the original. We will be glad to consider your request to see the physical evidence if you will:

- (1) Identify which specific exhibit or exhibits you wish to see. A general request to see all of the physical exhibits is not sufficient.
- (2) Indicate which of the photographs, drawings, measurements and descriptions of the exhibit and any other documentation relating to it you have examined.
- (3) Indicate briefly why the documentation available on the exhibit does not satisfy your research objectives and how those objectives might be met by observation of the original exhibits.

We will not consider any request unless the researcher has examined the digitized preservation photographs of the "Exhibits and Other Evidence from the President's Commission on the Assassination of President Kennedy (Warren Commission), 1959-1964" that are available through the National Archives Catalog.

Can I see Warren Commission records that are designated as commission exhibits (CE's) or FBI exhibits but are not artifacts?

The records you describe are from Entry 42 [Exhibits and Other Evidence] in the Records of the Warren Commission (RG 272). Unlike most documents in the JFK Assassination Records Collection, NARA does not routinely serve these records to the public due to the intrinsic value of many of these exhibits and the fact that the CE's are published in the supporting volumes to the Warren Commission Report. If you would still like to examine the original, we will arrange an appointment so that you can view the materials. During the appointment, a NARA staff member will handle the records and will be present at all times. If you would like to make an appointment, please contact the Special Access and FOIA Staff and supply the exhibit number and a brief description of the document you wish to examine. For information about access to artifacts please see the FAQ above.

I have seen the autopsy photographs and x-rays in books. Did NARA make them available?

Any photographs that have been published in books throughout the years were not obtained from NARA.

The autopsy photographs and X-rays of President Kennedy were donated to the National Archives by the Kennedy family by an agreement dated October 29, 1966. This agreement limits access to such materials to: (1) persons authorized to act for a Committee of Congress, a Presidential Commission, or any other official agency of the Federal government having authority to investigate matters relating to the assassination of President Kennedy and to (2) recognized experts in the field of pathology or related areas of science and technology whose applications are approved by the Kennedy family representative, Mr. Paul Kirk.

Can I access the Autopsy Report?

The National Archives does have an electronic copy of Appendix IX (Commission Exhibits 387 & 391). If you would like to receive a hard copy of Appendix IX, please write to us and provide us with a postal mailing address.

What happened to the Presidential Limousine that carried President Kennedy on the day he was assassinated?

The limousine that carried the President was searched for evidence after the assassination. It was then cleaned and continued to be used for certain functions. The windshield of the limousine was removed as evidence by the FBI and the Secret Service since it had been hit by the third bullet. The windshield was designated Commission Exhibit (CE) 350 of the Warren Commission and as a Warren Commission Exhibit will remain in the custody of the National Archives and Records Administration. The limousine is currently at the Henry Ford museum in Dearborn Michigan.

What is an "assassination-related" document?

The official definition of an assassination-related document was established by the ARRB, which was given the responsibility by the Kennedy Act. The ARRB definition is found in Chapter 2, page 18 of the ARRB Report.

The Federal Government created assassination-related records for a variety of reasons. Even before November 22, 1963, a few agencies maintained information on certain individuals later linked with the assassination. Many agencies gathered and created records immediately following the assassination in pursuit of investigations or ongoing business. Still more assembled material in response to the five formal commissions or committees established to investigate various aspects of the assassination or related subjects. Records reflecting all of these functions comprise the Kennedy Collection.

The newly released records include previously withheld records of the Warren Commission, records of

the Office of the Archivist, previously opened and newly released materials from the Kennedy, Johnson, and Ford Presidential Libraries, records of the House Select Committee on Assassination, records of the Central Intelligence Agency, the Federal Bureau of Investigation and a small amount of material from a variety of other agencies, including the Office of Naval Intelligence. See the Kennedy Collection Register for a complete list of all of the record groups and series in the Kennedy Collection.

To research records specifically regarding Kennedy's administration, please visit the John F. Kennedy Library.

The JFK Assassination Collection Database: What is it?

The database is a document level index of over 260,000 documents. Each document has a unique document identifier, called a record number, and a record identification form (RIF) that tells such information as the date of the document, the "to" and "from", any title associated with the document, brief subject identifiers, and finally the access status of the document. The database does not link to digitized images of records.

What's in the JFK Assassination Collection database...What's not in it?

The database documents only those records opened pursuant to the Kennedy Act. Not included are documents open prior to 1992, most prominently the records of the Warren Commission, documents donated by private individuals, and the records of the ARRB. Records not in the database are documented via folder title lists available on-line.

What is the significance of the Record Number in the JFK Assassination Collection Database?

The Record Number consists of three sets of numbers (example 180-10001-10123). The first number signifies the agency. All HSCA records are 180, all FBI records are 124, etc. The next number group signifies the data disk on which the data was entered. 10001 signifies disk 1, 10231, signifies disk 231 etc. The last number is the number of record on that disk 10000 is the first record entered on the disk, 10233 is the 234th document entered etc. These all have no significance regarding arrangement of the documents in the file. The more significant information on the record identification form (RIF) is the agency, the series, and the agency file number. However, the record number is the only unique identifying number.

Where is the Zapruder Film? Can I get a copy of it?

The original Zapruder film is part of the Kennedy Collection and is in the custody of the Motion Picture Sound and Video staff, at the National Archives at College Park. NARA may make a single fair-use copy of the film and sell it to any researcher. However, the copyright for the film is owned by the Sixth Floor Museum in Dallas Texas. If a researcher chooses to publish the film in any way, he or she will need to obtain permission from the copyright holders.

It should be noted that the Zapruder family created an enhanced version of the film that is much clearer than the original film in NARA's custody. At one time, you could rent this film from local video rental outlets. We believe this film is still available for purchase.

I am interested in acquiring some of the archives of the John F. Kennedy Assassination Records Collection. What is the process to do so?

You may view the records here at the National Archives at College Park and make your own copies. If you cannot make the trip to the Washington area, we can make copies for you and send them through the mail.

See our fees for self-service and mail order copies

Generally, researchers advise us via e-mail, fax, phone call or letter which documents they wish to have reproduced and we mail them a quote for the cost of reproduction and instructions for payment to the National Archives Trust Fund. Once we have received notification of payment from the Trust Fund, the order goes into our reproduction queue and is processed in turn.

Are the photographs and documents digitized?

A small portion of the five million pages in the Kennedy Assassination Records Collection are digitized and available on line through the National Archives Catalog. Unfortunately, the prohibitive costs of scanning, indexing, and maintaining digitized images on line means that the great majority of JFK Assassination Collection records are not available on NARA's web site.

However, there are numerous finding aids to the records of the Kennedy Assassination Records Collection available through NARA's website. Among the resources is the JFK Assassination Collection database, which provides an item level description of over 260,000 documents in the Collection. These documents consist of reports, memorandum, and evidence collected by the FBI, the CIA, and the various official governmental investigative organizations, such as the House Select Committee on Assassination. If you are interested in conducting research in the Collection, we urge you to examine the various links within the Collection homepage. If you can locate a specific document or folder that interests you, you can either view the records here at the National Archives at College Park or request a quote for the cost of reproducing the documents and having them sent to you.

I have a school/work/personal project pertaining to the JFK Assassination Collection. How do I begin?

Before conducting research at NARA, it is helpful to read all of the published information on a particular topic. We recommend that you begin with your local library where you should be able to check out books about the assassination written by individuals who have investigated the topic. The Warren Commission and the House Select Committee on Assassinations both published multi-volume reports. The volumes consist not only of the reports themselves, but also exhibits and testimony, which describe how each of these organizations came to their conclusions. These reports are available at U.S. government depository libraries, which are located all over the United States. You can locate a depository library near you by visiting the GPO website.

The National Archives and Records Administration (NARA) holds the unique documents created by government organizations in the course of their business. This documentation consists of such things as letters, memorandums, and reports. We have well over 5 million pages of documents relating to the Kennedy assassination alone. We do not loan records since each document is unique, unlike a library book, which is one of many copies. When you are ready to begin using the documents from the JFK Assassination Records Collection, please visit our website at <http://www.archives.gov/research/jfk/>. There you will find more detailed information about the collection, including the final reports of both the Warren Commission and House Select Committee on Assassinations (not including the supporting volumes) and the JFK database. The database indexes over 300,000 of the documents that are a part of the collection.

Do I have to submit a Freedom of Information Act request to access any records within the collection?

No, the vast majority of records in the JFK Assassination Collection are open in full. There is not need to file a FOIA to examine open records in the custody of the National Archives. For the few records that are partially or fully closed, the JFK Assassination Records Review Board voted to authorize the withholding of each piece of information that was postponed under Section 6 of the JFK Act. Under the Act, no information can be closed after 2017 unless approved by the President of the United States. The grounds for postponement under the JFK Act are much more narrowly drawn than the exemption categories of the FOIA, therefore more information has been released under the provisions of the JFK Act than would have been released under the provisions of the FOIA. It is extremely unlikely that information withheld under the JFK Act would be released under a FOIA review. Nevertheless, if you would like to request a FOIA review of documents that have information deleted, please write to us citing the specific document.

Can I view Mrs. Kennedy's Pink Suit?

Mrs. Kennedy's suit resides at the National Archives and Records Administration's (NARA) College Park facility. It is located in a secure area, under climate-controlled conditions, and stored flat in special containers for preservation purposes.

Caroline B. Kennedy donated suit to the National Archives through a deed of gift, signed in 2003. The deed states that the clothing and personal effects "should be deposited, safeguarded, and preserved in the National Archives of the United States as materials of historical importance, and "the family further desires to ensure that the materials never be subject to public display, research, or any other use that would in any way dishonor the memory of Mrs. Kennedy or President Kennedy, or cause any

grief or suffering to members of their family." Therefore access to the clothing and personal effects of Mrs. Kennedy are restricted for one hundred (100) years from the date of execution of the deed of gift.

Can I have copies of the entire collection?

There are well over 5 million pages of records that document the assassination of President Kennedy and the investigation that followed. The National Archives currently charges \$.80 per page for photocopies of textual records. For this reason, copying the entire Collection is not practical. There are finding aids available on line that can help you narrow your request to specific documents that answer your research question.

Please visit our website. Here, you will find detailed information about the collection. Online versions of the final reports of the Warren Commission, House Select Committee on Assassinations, and the Assassination Records Review Board are also available. To locate documents in the JFK Assassination Records Collection that are relevant to your research, I suggest that you search the JFK database, also available on our website. This database indexes over 300,000 individual records in the Collection. Tips for using the database are provided on the website. Each document is described in a Record Identification Form (RIF).

Once you have located the documents to which you would like access, simply print out the RIFs and mail them to Textual Records Reference Division, 8601 Adelphi Road, College Park, Maryland, 20740. Alternatively, you may also cut and paste the entire RIF into an email and send it to our office at archives2reference@nara.gov. Upon receiving your reproduction request, we will send you a quote for the reproduction charges. When we receive payment, we will prepare the photocopies and mail them to you.

Can I view President Kennedy's clothing?

The apparel worn by President Kennedy on November 22, 1963, is in the legal and physical custody of the National Archives and Records Administration (NARA). The President's apparel was used as evidence during the Warren Commission investigation into the assassination during the years 1963 through 1964. When the work of the Warren Commission ended, the apparel was transferred to NARA under a deed of gift. The apparel is located in a secure area, under climate-controlled conditions, and stored flat in special containers for preservation purposes. In addition, NARA created detailed color photos of these materials as part of a larger preservation effort to photograph the significant artifacts in the JFK Assassination Records Collection. Due to the restraints of the deed of gift under which the materials were transferred to NARA, NARA has not posted these photographs online, as we have with photographs of other JFK assassination related artifacts. However, the photographs of the clothing are available for examination in our research room in College Park, Maryland, or may be purchased for a fee.

Are the images in the collection public domain or under copyright?

Some of the images in which you are interested may be copyrighted. Where obvious copyright or donor imposed restrictions apply, written releases from the copyright owners may be required before reproductions will be made. It is the user's responsibility to obtain all necessary clearances. Any use of these items is made at the researcher's or purchaser's own risk.

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material.

Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specific conditions is that the photocopy or reproduction is not to be "used for any purpose other than private study, scholarship, or research." If a user makes a request for, or later uses a photocopy or reproduction for purposes in excess of "fair use," that user may be liable for copyright infringement.

The National Archives reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law.

PDF files require the free Adobe Reader.

More information on Adobe Acrobat PDF files is available on our Access to Information Act No FEAR Act USA.gov

The U.S. National Archives and Records Administration

1-86-NARA-NARA or 1-866-272-6272

EXHIBIT 4

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KING COUNTY, WASHINGTON

NOV 21 1995

DEPARTMENT OF
JUDICIAL ADMINISTRATION

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

COURTNEY LOVE-COBAIN, in her
individual capacity and as personal
representative of the Estate of Kurt
Cobain; and JANE M. McCORMMACH,
as guardian ad litem for [REDACTED]
[REDACTED] a minor child,

Plaintiff,

v.

WASHINGTON STATE PATROL

Defendant.

NO. 95-2-27261-4 SEA

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
FINAL JUDGMENT ISSUING
PERMANENT INJUNCTION
BARRING DISCLOSURE OF
DOCUMENTS

[Clerk's Action Required]

This matter is before the court on plaintiffs' motion for a permanent restraining order precluding public disclosure of documents and an order restoring private documents to the Estate of Kurt Cobain (the "Cobain Estate"). Hearing on the motion was conducted on November 1, 1995. Plaintiffs were represented at the hearing by Bryan P. Coluccio of Short Cressman & Burgess. Defendant Washington State Patrol was represented by Carol A. Smith, Senior Counsel.

The court considered the following materials submitted by the parties:

Plaintiffs' Materials: Plaintiffs' Motion for Permanent Restraining Order; Declaration of Bryan P. Coluccio; Declaration of Seth Lichtenstein; Declaration of Jane McCormmach; Declaration of Detective Steve Kirkland; Declaration of Carol Newell Pidduck.

Defendant's Materials: Defendant's Memorandum of Authorities in Response to Plaintiffs' Motion for Permanent Restraining Order; Affidavit of Janis Parker

In addition to reviewing the written submissions of the parties, the Court has also conducted an *in camera* examination of the two letters which are the subject of plaintiff's

FINDINGS OF FACT AND
CONCLUSIONS OF LAW - 1

LAW OFFICES
SHORT CRESSMAN & BURGESS
3000 FIRST INTERSTATE CENTER
999 THIRD AVENUE
SEATTLE, WASHINGTON 98104-4088
(206) 682-3333

1 motion, which will be referred to as the "Final Letter" and "Exemplar Letter." Because of the
2 highly personal and sensitive nature of these letters, they have not been made part of the court
3 file by determination of the Court.

4 The Court, upon consideration of the written submissions and oral argument presented
5 by counsel, determines that plaintiffs' are entitled to a permanent injunction as requested. The
6 documents in possession of the Washington State Patrol, consisting of copies of two letters
7 written by Kurt Cobain, now deceased, shall not be disclosed to the general public, and
8 defendant is hereby permanently restrained from disclosing said letters to any third persons or
9 the general public at any time in the future.

10 The Court makes the following Findings of Fact and Conclusions of Law:

11 **I. FINDINGS OF FACT**

12 1.1 Kurt Cobain died in April 1994 in Seattle, Washington. Shortly before his death,
13 Mr. Cobain wrote a letter directed to his spouse, plaintiff Courtney Love-Cobain, and his
14 daughter, [REDACTED] ("the Final Letter"). The Final Letter was found near
15 Mr. Cobain's body. The letter contains extremely private, intimate thoughts and sentiments
16 of Mr. Cobain, directed principally to his spouse and daughter. A second letter, referred to
17 below as the "Exemplar Letter" was written by Mr. Cobain several months before his death.
18 That letter also contains extremely private, intimate thoughts of Mr. Cobain. The contents of
19 the Exemplar Letter are directed principally to Mr. Cobain's spouse and daughter.

20 1.2 The probate and administration of Mr. Cobain's estate is under the jurisdiction
21 of King County Superior Court, Cause No. 94-4-02203-0. Mr. Cobain's daughter, [REDACTED]
22 is presently three years of age. The court has appointed a guardian ad litem for [REDACTED] Jane
23 McCormmach, Esq. The Cobain Estate has undertaken substantial steps to protect the privacy
24 interests of Ms. Love-Cobain and [REDACTED] including efforts to prevent any public disclosure
25 of Mr. Cobain's personal letters and materials pertaining to his death. These steps have
26 included registration of the Final Letter as an unpublished work with the U. S. Copyright

1 Office. It is the present intent of the Cobain family and the Cobain Estate to maintain the
2 letters as unpublished works.

3 1.3 Mr. Cobain's death was investigated by the Seattle Police Department (SPD),
4 a public agency. In the course of the investigation, forensic services were provided to SPD by
5 the Seattle Crime Laboratory of the Washington State Patrol (the "Patrol"), a public agency.

6 1.4. Ms. Love-Cobain was and remains severely traumatized by her husband's death.
7 Because of her tender age, there is also concern that Mr. Cobain's daughter will suffer severe
8 emotional and psychological trauma as she learns the details of her father's death. In
9 conducting its investigation, SPD took appropriate steps to protect the privacy interest of Mr.
10 Cobain's family, and to minimize any adverse impact upon his family.

11 1.5 SPD's investigation confirmed that Mr. Cobain's death was the result of suicide.

12 1.6. As a part of its investigation, SPD took steps to confirm that the letter found near
13 Mr. Cobain's body, the Final Letter, was written by him. This required a handwriting analysis.
14 SPD does not have facilities to perform handwriting analyses. When handwriting analysis is
15 required, SPD routinely obtains assistance from the Seattle Crime Laboratory of the
16 Washington State Patrol ("the Seattle Crime Lab"). SPD requested the assistance of the Seattle
17 Crime Lab in performing a handwriting analysis of the Final Letter.

18 1.7 Nothing in the Final Letter pertained to any activities or conduct of SPD or the
19 Patrol.

20 1.8. To perform a handwriting analysis, a known sample of handwriting of the author
21 is required for comparison purposes. SPD Detective Steve Kirkland contacted Ms. Love-
22 Cobain and asked her to provide him with a sample of her husband's handwriting. Ms. Love-
23 Cobain was very concerned that the Final Letter, and any writing samples of her late husband,
24 would become available to the general public. The Final Letter was very personal to Ms.
25 Love-Cobain. She informed Detective Kirkland that she had an earlier letter written by Mr.
26 Cobain, which was also very personal in content and context, which could be used for

1 comparison. Ms. Love-Cobain did not want her family's privacy harmed or invaded by any
2 release of the writings to the public.

3 1.9. Detective Kirkland explained to Ms. Love-Cobain how the writings would be
4 handled: Detective Kirkland would personally deliver the original Final Letter, and the
5 original handwriting sample, to the Patrol's Seattle Crime Lab. The Seattle Crime Lab would
6 then compare the writings, and report the results of the handwriting analysis to SPD. The
7 originals of the writings would then be returned to SPD by the Patrol's Crime Lab, and the
8 originals then returned to Ms. Love-Cobain. Detective Kirkland assured Ms. Love-Cobain
9 that no one would have access to the copies of the Final Letter or Exemplar Letter other than
10 authorized personnel of SPD or the King County Medical Examiner's Office. He further
11 promised Ms. Love-Cobain that the writings would never be made available to the general
12 public.

13 1.10. Based on these assurances, Ms. Love-Cobain provided SPD with a handwriting
14 exemplar. The exemplar was an extremely personal, intimate letter written by Mr. Cobain
15 which was directed to Ms. Love-Cobain (the Exemplar Letter). Nothing in the Exemplar
16 Letter related in anyway to SPD's investigation, other than constituting a known handwriting
17 sample of Mr. Cobain. The contents of the Exemplar Letter did not pertain in any way to the
18 activities or conduct of SPD or the Patrol.

19 1.11. After Ms. Love-Cobain delivered the original Exemplar Letter to Detective
20 Kirkland, that letter and the original Final Letter were received by the Seattle Crime Lab. As
21 part of the Seattle Crime Lab's handwriting analysis, a copy was made of the Final Letter and
22 a copy made of the Exemplar Letter. The document examiner performing the handwriting
23 analysis made certain notations on each of the letter copies. The Seattle Crime Lab completed
24 its handwriting analysis, and thereafter returned the original Exemplar Letter and original Final
25 Letter to Detective Kirkland. The copies of the letters containing the document examiner's
26 notations were placed in the Seattle Crime Lab's file. After the original letters were returned

1 to Detective Kirkland, he contacted Ms. Love-Cobain and delivered the original Exemplar
2 Letter and original Final Letter to her.

3 1.12. By letter dated September 18, 1995, a private citizen, Richard Lee, requested
4 copies of the Final Letter and Exemplar Letter from the Patrol.

5 1.13. Prior to the Patrol receiving the request from Mr. Lee, SPD received
6 approximately a dozen requests, verbally and in writing, from private citizens and the media
7 for information and documentation compiled by SPD in the course of its investigation of
8 Mr. Cobain's death. The scope of the requests included the Final Letter and Exemplar Letter.
9 The requests were processed by SPD in accordance with the Public Disclosure Act.
10 Requesting parties included a local television station, a local newspaper, and Mr. Lee.

11 1.14. In SPD's response to all public disclosure requests, including those of the local
12 television station, local newspaper, and Mr. Lee, the Final Letter and Exemplar Letter, as well
13 as other personal, private, or family information concerning Mr. Cobain or his family
14 members, were withheld from disclosure pursuant to RCW 42.17.310(1)(d). In compliance
15 with the statute, such information was withheld by SPD in order to protect the privacy rights
16 of Mr. Cobain's family.

17 1.15. The Court finds that the copies of the Final Letter and Exemplar Letter in the
18 possession of the Patrol's Seattle Crime Lab qualify as "public records" as defined by RCW
19 42.17.010(27). First, the letter copies are writings that were used or retained by a public
20 agency. Second, the interlineations placed on the letter copies by the document examiner
21 relate to the performance of an agency's functions, namely, the functions of the Seattle Crime
22 Lab, which is in the business of assisting law enforcement agencies in undertaking certain
23 types of analyses. As public records, the letter copies in possession of the Patrol are subject
24 to RCW Ch. 40.14, which governs preservation and destruction of public records.

25 1.16. The Court finds that the copies of the Final Letter and Exemplar Letter in
26 possession of the Patrol and Seattle Crime Lab are exempt from disclosure under RCW

1 42.17.310(1)(d). The letters are part of investigative records compiled by investigative/law
2 enforcement agencies, the nondisclosure of which is essential in protecting a person's right of
3 privacy. Here, the privacy interests implicated are those of Mr. Cobain's surviving family,
4 particularly the privacy interests of Ms. Love-Cobain and [REDACTED]

5 1.17. In making its findings regarding the privacy interests of Mr. Cobain's family,
6 the Court has considered the requirements of RCW 42.17.255, which is based on the
7 definitions of privacy set forth in Hearst Corp. v. Hoppe, 90 Wn.2d 123 (1978). The letters
8 at issue, the Final Letter and Exemplar Letter, are personal, intimate letters amongst family
9 members, disclosing intimate details of Mr. Cobain's feelings and thoughts towards his wife
10 and child. Based on its *in camera* review of these two letters, the Court finds that the disclosure
11 of these letters would be highly offensive to a reasonable person, and a totally unwarranted
12 invasion of the privacy interests of Mr. Cobain's wife and child.

13 1.18. In applying the requirements of RCW 42.17.255, the Court has also considered
14 whether there is any legitimate public concern which would require disclosure of the letters.
15 In evaluating the public interest element of RCW 42.17.255, the Court has focused on the
16 purpose of the Public Disclosure Act, which is to protect the public's right to know how its
17 government, including elected and appointed officials are conducting the affairs of
18 government. The Court finds that there is no public interest which warrants disclosure of the
19 letters. Disclosure will shed no light on any function being performed by either the
20 Washington State Patrol or the Seattle Police Department. The purpose of the Public
21 Disclosure Act is to allow public scrutiny of government, rather than to promote scrutiny of
22 a particular private citizen. Disclosure of the Final Letter and Exemplar Letter would not
23 promote scrutiny of either law enforcement agency, but would only allow scrutiny of private
24 citizens, Mr. Cobain and his family.

25 1.19. The Court finds further that disclosure of the final Letter and Exemplar Letter
26 is also prohibited by RCW 42.17.330. Based on the foregoing findings, the Court finds that

1 the examination of the two letters is clearly not in the public interest, and their disclosure
2 would substantially and irreparably damage the Cobain family.

3 1.20. The Court finds that disclosure of the letters is also pre-empted by the Copyright
4 Act of 1976, 17 U.S.C. §§ 101 et seq. Disclosure of the letters would amount to infringement
5 of the Cobain Estate's copyright interest in the letters as unpublished works.

6 1.21. The Court finds that the plaintiffs are entitled to a permanent injunction barring
7 any release of the Final Letter and Exemplar Letter by the Patrol to any third person or the
8 general public. Plaintiffs have a clear legal and equitable right to nondisclosure of the letters;
9 there will be an immediate invasion of the plaintiffs' rights if disclosure occurs; and release
10 of the letters will result in actual substantial, and irreparable damage to the plaintiffs, there
11 being no other adequate remedy at law.

12 II. CONCLUSIONS OF LAW

13 2.1. The Court has jurisdiction over the parties and subject matter in this action.

14 2.2. The Final Letter and Exemplar Letter are public records under the Public
15 Disclosure Act, RCW Ch. 42.17. The preservation and destruction of the records are governed
16 by RCW Ch. 40.14.

17 2.3. In making its rulings and conclusions of law, the Court has been guided by the
18 cases cited by the parties and those independently reviewed by the Court. The cases
19 considered by the Court include Police Guild v. Liquor Control Board, 112 Wn.2d 30 (1989);
20 Yakima Newspapers v. Yakima, 77 Wn. App. 319 (1995); Dawson v. Daly, 120 Wn.2d 782
21 (1993); U.S. Department of Justice v. Reports Committee, 489 U.S. 757, 109 S.Ct. 1468
22 (1989); New York Times Co. v. NASA, 782 F. Supp. 628 (D. D.C. 1991); Katz v. National
23 Archives and Records Administration, 862 F. Supp. 476 (D. D.C. 1994); and Brown v. Seattle
24 Public Schools, 71 Wn. App. 613 (1993).

1 2.4. The Final Letter and Exemplar Letter are exempt from public disclosure under
2 RCW 42.17.310(1)(d). Nondisclosure of the letters is essential for the protection of the
3 privacy interests of the Cobain family.

4 2.5. The disclosure of the Final Letter and Exemplar Letter would be an unwarranted
5 invasion of the privacy interests of the Cobain family as defined by RCW 42.17.255.
6 Disclosure of the letters would be highly offensive to a reasonable person, and their disclosure
7 is not of legitimate concern to the public.

8 2.6. Disclosure of the letters is also prohibited under RCW 42.17.330., Disclosure of
9 the letters is clearly not in the public interest, and disclosure would substantially and
10 irreparably damage the interests of the Cobain family.

11 2.7. There is another basis for precluding public disclosure: Operation of
12 RCW Ch. 42.17 in this case is pre-empted by the Copyright Act of 1976, 17 U.S.C. §301.
13 Disclosure would constitute infringement of the Cobain Estate's interest in the letters as
14 unpublished works. The Cobain Estate has a copyright interest in the letters pursuant to 17
15 U.S.C. § 101 et. seq.

16 2.8. Plaintiffs are entitled to a permanent injunction against the Washington State
17 Patrol, permanently barring the Patrol from any disclosure or release of the Final Letter or
18 Exemplar Letter, including the actual writings and the contents of the letters, to the general
19 public or any third person. The Plaintiffs are entitled to injunctive relief pursuant to CR 65,
20 RCW ch. 7.40, and RCW 42.17.330. Plaintiffs have a clear legal right to nondisclosure of the
21 Final Letter and Exemplar Letter; there will be an immediate invasion of the plaintiffs' rights
22 if disclosure was ever to occur; release of the letters will result in substantial, irreparable, and
23 actual injury to the plaintiffs; and there is no other adequate remedy at law.

24 2.9 As further protection against any possible disclosure of the Final Letter and
25 Exemplar Letter, plaintiffs requested the Court to order the Patrol to expunge the letter copies
26 from its records. The Court is without jurisdiction to order the Patrol to expunge from its

1 records the copies of the Final Letter and Exemplar Letter. Retention and destruction of the
2 letter copies is governed by RCW Ch. 40.14. The Court concludes, however, that plaintiffs
3 will be adequately protected by the issuance of a permanent injunction prohibiting any
4 disclosure of the Final Letter and Exemplar Letter.

5 **III. JUDGMENT GRANTING PERMANENT INJUNCTION**

6 Based on the foregoing Findings of Fact and Conclusion of Law, the Court enters final
7 judgment as follows:

8 3.1 The Washington State Patrol, and any of its agents, employees and
9 representatives (including without limitation the Seattle Crime Laboratory and any of its
10 agents, employees and representatives), are permanently enjoined, prohibited and restrained
11 from:

- 12 (1) disclosing, disseminating, releasing or distributing to any person, entity,
13 agency, or member of the general public (a) the copies of the Final Letter and
14 Exemplar Letter in the possession of the Washington State Patrol, and (b) the
15 contents of either the Final Letter and Exemplar Letter; and
16 (2) reproducing, copying, or duplicating any copies of the Final Letter or
17 Exemplar Letter in possession of the Washington State Patrol or the Seattle
18 Crime Laboratory.

19 3.2 The Washington State Patrol shall take all necessary steps internally to assure
20 compliance with this Permanent Injunction, including without limitation, placing and affixing
21 to the file containing the copies of the Final Letter and Exemplar Letter a copy of the foregoing
22 Findings, Conclusions, and Judgment Issuing Permanent Injunction.

23 3.3 The parties shall bear their own respective costs and attorneys fees in this action.

24 DONE IN OPEN COURT this 21 day of November, 1995.

25
26

JUDGE JOAN E. DuBUQUE

1 Presented by:

2 SHORT CRESSMAN & BURGESS

3
4 By: Bryan F. Coluccio
5 Bryan F. Coluccio, WSBA #12609
Attorneys for Plaintiffs

6 APPROVED AS TO FORM AND CONTENT;
7 NOTICE OF PRESENTATION WAIVED:

8
9 By: Carol A. Smith
10 Carol A. Smith, WSBA #6287
11 Senior Counsel, Washington State Patrol
Office of the Attorney General
Attorney for Defendant
Washington State Patrol